

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 14-13552-RGS

VENTRY GORDON,
a/k/a JUSTICE MOHAMMED.,
Petitioner

v.

SEAN MEDIEROS, Superintendent,
Respondent

ORDER ON REPORT AND RECOMMENDATION
OF THE MAGISTRATE JUDGE

July 27, 2015

STEARNS, D.J.

I agree with Magistrate Judge Dein's determination that the petition is untimely under the one-year limitations period prescribed by 28 U.S.C. §2244(d)(1).¹ I further agree that there is no basis for invoking the doctrine of equitable tolling in light of petitioner's lack of diligence and failure to show any extraordinary circumstance.² Consequently, the Recommendation is

¹ As the Report notes, the judgment in petitioner's state case became final on September 8, 1996. The three belated motions for a new trial filed in the interval before the filing of this petition on August 29, 2014, do not excuse the untimely filing (or come even close to doing so).

² Petitioner's reliance on *Presley v. Georgia*, 558 U.S. 209 (2010), is misplaced for the reasons explained by the Magistrate Judge.

ADOPTED and the petition is DISMISSED with prejudice. Any request for the issuance of a Certificate of Appealability pursuant to 28 U.S.C. § 2253 is DENIED, the court seeing no meritorious or substantial basis supporting an appeal. The Clerk is instructed to close the case.

SO ORDERED.

/s/ Richard G. Stearns

UNITED STATES DISTRICT JUDGE